

DRAFT



Gaithersburg

A CHARACTER COUNTS! CITY

CITY OF GAITHERSBURG

MINUTES OF A REGULAR CITY COUNCIL MEETING

MARCH 20, 2006.

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Edens, Marraffa, Schlichting and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Director of Public Works, Parks Maintenance and Engineering (PWPME) Arnoult, Facilities Director Geiling, Planning and Code Administration Director Ossont, Community Planning Director Schwarz, Planner Patula, Planner Seiden, Parks, Recreation and Culture Director McGleish, Finance and Administration Director Belton, Comptroller Smith, Senior Accountant Woo, Human Services Program Manager Herndon, Police Sergeant White, City Attorney Borten and Administrative Assistant Stokes. Planning Commissioners present for joint discussion item: Bauer, Hopkins, Kaufman, Levy and Winborne.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Boy Scout Troop #207, Gaithersburg Presbyterian Church, Gaithersburg, Maryland.

II. INVOCATION

The invocation was led by the Chaplain Edco Bailey, Shady Grove Adventist Hospital.

III. APPROVAL OF MINUTES

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the minutes of the Mayor and Council meeting held March 6, 2006, be approved.

Vote: 5-0

IV. CONSENT ITEMS

1. Resolution of the Mayor and City Council Authorizing the City Manager to Award a Contract to Provide the Fourth of July Fireworks

This resolution authorized the City Manager to award a contract for the above to Fireworks Productions, Inc., 6 Twig Court, White Hall, Maryland 21161, in the amount of Twenty-Seven Thousand Five Hundred Dollars (\$27500); said funds to be expended from the Operating Budget.

2. Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Contract to Purchase One (1) 2007 Single Axle Dump Truck With Snow Plow and Salter

This resolution authorized the City Manager to negotiate and execute a contract for the above purchase with Criswell Chevrolet, 503 Quince Orchard Road, Gaithersburg, Maryland 20878, in the amount of Ninety-Eight Thousand Six Hundred Thirty-Five Dollars (\$98,635); said funds to be expended from the Operating Budget.

3. **Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Contract for the Construction of Stream Bank Armoring in Malcolm King Park**

This resolution authorized the City Manager to negotiate and execute a contract for the above services with Environmental Quality Resources, L.L.C., 8711 Snouffer School Road, Gaithersburg, Maryland 20879, in the amount of Twenty-Eight Thousand Six Hundred Dollars (\$28,600); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Schlichting, seconded by Council Member Edens, that the Consent Agenda (Resolution Nos. R-23-06 through R-25-06), be approved.

Vote: 5-0

V. **APPOINTMENTS**

1. **Resolution Confirming Appointments and a Reappointment to Various Committees**

This resolution confirmed the following: **Community Advisory Board**, Christine Bechtel (reappointment), 621 Lake Varuna Drive, Gaithersburg, Maryland 20878, two-year term; **Cultural Arts Advisory Committee**, Blanche Keller (appointment), 911 Wild Forest Drive, Gaithersburg, Maryland 20879, two-year term; **Education Committee**, Ryan Spiegel (appointment), 8 Granite Place, Gaithersburg, Maryland 20878, two-year term; and the **Gaithersburg Senior Council**, Blanche Keller (appointment), 911 Wild Forest Drive, Gaithersburg, Maryland 20879, two-year term.

Motion was made by Council Member Edens, seconded by Council Member Sesma, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND A REAPPOINTMENT BY THE MAYOR TO THE COMMUNITY ADVISORY BOARD, CULTURAL ARTS ADVISORY COMMITTEE, EDUCATION COMMITTEE, AND GAITHERSBURG SENIOR COUNCIL (Resolution No. R-26-06), be approved.

Vote: 5-0

2. **Resolution of the City Council Confirming a Reappointment by the Mayor to the Planning Commission – *Leonard Levy***

Motion was made by Council Member Sesma, no second, reappointment not confirmed.

3. **Resolution of the City Council Confirming an Appointment by the Mayor to the Planning Commission – *Lloyd Kaufman***

This resolution confirmed the appointment of Lloyd Kaufman, 405 Firehouse Lane, Gaithersburg, Maryland 20878, five-year term.

Motion was made by Council Member Alster, seconded by Council Member Schlichting, that a RESOLUTION OF THE CITY COUNCIL OF GAITHERSBURG CONFIRMING AN APPOINTMENT BY THE MAYOR TO THE PLANNING COMMISSION (Resolution No. R-27-06) be approved.

Vote: 5-0

VI. OATH OF OFFICE TO PLANNING COMMISSIONER

- Mayor Katz administered the Oath of Office to Lloyd Kaufman to execute the office of Planning Commission, according to the Constitution and Laws of the State of Maryland.

VII. OATH OF OFFICE TO BOARD OF APPEALS MEMBERS

- Harvey Kaye - Mayor Katz administered the Oath of Office to Harvey Kaye to execute the office of Board of Appeals, according to the Constitution and Laws of the State of Maryland.
- Carol Rieg (not present, will receive the Oath at the April 3, 2006 meeting).

VIII. PRESENTATIONS**1. GREAT Award**

Mayor Katz along with Vicky Connor of the Education Committee and other members presented the GREAT Award to Washington Grove Elementary School in recognition of their planned special Day of Understanding. The Award was presented to Principal Kathy Brake and Counselor Ann Moran.

2. Presentation

Department of Finance and Administration Director Belton stated that the City of Gaithersburg was awarded the Certificate of Achievement for Excellence for fiscal year ended June 30, 2005. The City has received the Certificate of Achievement for the last 28 consecutive years (fiscal years ended 1978 – 2005). Mayor Katz recognized Mr. Belton for his leadership and thanked Comptroller Tina Smith and Senior Accountant Angela Woo for their hard work.

IX. PUBLIC APPEARANCES

1. *William Burke, 216 Winter Walk Drive*, expressed disappointment in the lack of movement on the issues raised concerning the **Crown Farm** development. He expressed concern with the overall impact of the development, the process, high density, and the applicant's loan issue and annexation date deadline. He stated that the City should be concern about the citizen's timetable and not the developers. He urged the City Council to concentrate on the Corridor Cities Transitway.
2. *Jody Kline, Miller, Miller and Canby*, stated he was not able to attend the GE Tech Park Special Study Area Town Hall meeting. On behalf of the property owner/client, he offered to submit a plan to go through the City's Master Plan process.

X. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS**Council Member Sesma**

1. Thanked those that attended and gave input during the GE Special Study Area Town Hall meeting mentioned above.
2. He stressed the importance of the Corridor Cities Transitway (CCT) component and its impact on Crown Farm and other pending development in Gaithersburg. He stated that without the CCT and the proposed alignment, there is no justification for the high density for residential, commercial and retail development in pending projects. He suggested a work session be scheduled to receive a presentation from the Maryland Transit Administration and focus on transportation issues and specifically, the CCT. Mayor Katz asked staff to move forward and schedule a work session.

Council Member Marraffa

1. Reported that he attended the National League of Cities (NLC) Conference in Washington, D.C. Stated that he was appointed to the Immigration Task Force which met to discuss a proposed plan to be presented to Congress. He stated that he will report back and give an update at a future meeting.
2. Encouraged local jurisdictions and citizens to lobby Congress to save Community Development Block Grant Funds.

Council Member Alster

1. Reported that he attended the conference mentioned above to discuss the issue of cable franchising and to retain local authority and control of the rights-of-way. He stated that his committee is also lobbying Congress. He mentioned that legislation of the Telecommunications Act has been drafted and should be available soon.
2. Reported that he attended COG's Transportation Planning Board Meeting to discuss metro access and made recommendations to the Transportation Board to fund improvements to said service.

Council Member Edens

Announced that registration has begun for spring recreation classes for both children and adults. Online registration is available via the City's website at www.gaithersburgmd.gov.

Council Vice President Schlichting

1. Announced that on March 18, 2006, he and Assistant City Manager Felton were in Annapolis to testify before the House and Senate Budget Committee for the City's Eastside Youth Center. Mentioned that the City will soon open a state-of-the-art youth center on the westside which will be the first green building in the City. The City is lobbying for at least \$400,000 in the '07 State Budget.
2. Reported that he recently attended a Market Square Advisory Committee meeting to discuss and receive a final design plan for the Market Square Plaza.
3. Announced that he and Environmental Services Director Shingara attended the Potomac Water Shed Trash Summit at the World Bank. He stated that he was one of the signatures representing 17 jurisdictions to sign the Trash Action Plan, committing the City to a comprehensive regional strategy to create a trash free Potomac Watershed by 2013. He further announced that Gaithersburg will host cleanups throughout the City during the scheduled annual community cleanup day on Saturday, May 6, 2006, 9:30 a.m. to noon.
4. As a Board Member of the COG Board of Directors, he received a letter from the Washington Area Housing Trust Fund. He stated that the group provides loans for moderate and low income housing throughout the region. He stated that their initiatives are consistent with the City's affordable housing initiatives and encouraged the City to consider including the dues of \$1,835 in the FY'07 City Budget.

Mayor Katz

1. Attended the St. Patrick's Day Parade with other City Council Members.
2. Announced the City will conduct a work session on Monday, March 27, 2006, to discuss the City's Mosquito Program and the Market Square Plaza Plan.

3. Announced that the Mayor and City Council of Gaithersburg will vote on Monday, March 27, 2006, to conduct a closed executive session on Monday, March 27, 2006, immediately following the scheduled work session of the Mayor and City Council of Gaithersburg, pursuant to Sec. 10-508(a)(1)(i), State Government Article of the Annotated Code of Maryland, to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The topic to be discussed is the performance of Mayor and Council appointees to the Planning Commission.
4. Publicly thanked all that applied for the vacant Planning Commission positions and announced the vacancy for the alternate position on the Commission. He asked staff to contact the candidates that applied to see if they would like to be considered for the alternate Planning Commission position. Deadline for submitting letters is 5 p.m. on Thursday, April 20, 2006.
5. Announced that the deadline for the Board of Appeals alternate position is also set for 5 p.m. on Thursday, April 20, 2006.

XI. FROM THE CITY MANAGER

- **Day Laborer Task Force**

Reported that the Day Laborer Task Force has two meetings remaining on their schedule. The group is finalizing their recommendations for presentation at the April 10, 2006 work session.

- **GE Tech Park Special Study Area**

Reported that the Mayor and City Council attended the March 15, 2006 Town Hall meeting and received input from stakeholders. Staff recommended that the Mayor and City Council announce the closing of the record for MP-02-004. Staff believes that 30 days notice would give interested parties adequate time to comment.

Motion was made by Council Member Edens, seconded by Council Member Schlichting, that the Mayor and City Council close their record on MP-02-004 on Thursday, April 20, 2006, 5 p.m., with Policy Discussion anticipated for May 1, 2006.

Vote: 5-0

- **Crown Farm Annexation - X-182**

Reported that on Thursday, March 16, 2006, Assistant City Manager Felton, P&CA Director Ossont and himself went before the Montgomery County Planning Board to provide input on the proposed Crown Farm annexation. He stated that County Council approval will be required if the City plans to move forward with the annexation. He mentioned that the County Planning Board will be discussing the proposed annexation again on Thursday, March 30, 2006, at which time they are expected to make their recommendation to the County Council. He added that the County Council PHED Committee is scheduled to discuss the proposed annexation in early April with action from the full Council shortly thereafter. He stated that the Mayor and a number of Council Members raised questions about issues associated with the Corridor Cities Transitway alignment relative to the proposed annexation. He reported that City staff is continuing to work with the Corridor Cities Transitway project team and are scheduled to receive an update from a representative from the project team during the April 3, 2006 Mayor and City Council meeting. He explained that former City Attorney Stanley Abrams addressed two issues at a Planning Board meeting regarding the Crown Farm Annexation at the request of City Attorney Borten because of his involvement with many past annexations and his understanding of the process.

XII. PUBLIC HEARING**An Emergency Ordinance to Amend Chapter 15 of the City Code, Entitled "Offenses-Miscellaneous", to Create a New Section 15-18 Entitled "Picketing at a Private Residence", so as to Prohibit Picketing at a Private Residence Under Certain Circumstances**

Assistant City Manager Felton stated that the above Ordinance was introduced on March 6, 2006 and advertised in the *Gaithersburg Gazette* on March 8, 2006. He stated that the proposed ordinance is essentially identical to Montgomery County's law, Section 32-23. Montgomery County Code states that it is unlawful to picket in front of or adjacent to a private residence; however, it is not applicable in the City of Gaithersburg. He stated that there is currently a situation in the City where a private residence is being picketed periodically and creating a neighborhood disturbance. He reviewed the exceptions that would allow picketing at a private residence. He reminded the City Council that an emergency ordinance can become effective immediately upon adoption. Staff recommended that the record be held open until Wednesday, March 29, 2006, 5 p.m., with final action anticipated for April 3, 2006. He further stated that the proposed Ordinance is similar to an ordinance that was upheld by the Supreme Court.

Speakers from the public:

1. *Matthew Tarosky, 109 Goucher Terrace*, has experienced protestors for the past three years outside his home. He expressed issues of concern such as safety, privacy and the impact of homeownership and revenue. Stated the protesting is a disturbance and expressed support for the proposed ordinance.
2. *Webster Tarpley, 115 Goucher Terrace*, stated the quality of life in the residence has been affected by the constant picketing. Stated he is in favor of the ordinance. He further stated that there are levels of harassment occurring from the protestors.
3. *Diane Tillery, Montgomery County Police Department, Community Services Officer at the 6th District Station*, stated her job is to work with communities to figure out what the problem is and look for solutions. She stated the Mr. Rosenbloom and his neighbors are being harassed and expressed support of the ordinance.
4. *Denise James, Washington, D.C. resident, co-worker of Mr. Rosenbloom*, stated that everybody is entitled to peace and it should not come at a price. She stated that the picketing affects the lifestyle of the residence.
5. **Anonymous**, stated the picketing is an annoyance for children and seniors in the community and supported the proposed ordinance.
6. *Leah Tarpley, 115 Goucher Terrace*, expressed support for the ordinance. She stated that there is a safety issue for the children in the neighborhood. She also expressed concern for the pedestrian safety of the protestors with vehicles coming and going.
7. *Kimberly Oser, 127 Goucher Terrace*, supports the ordinance and agreed with remarks made by previous speakers.
8. *Sam Rosenbloom*, supports the ordinance and made reference to the Supreme Court case. He stated that the ordinance should be enacted to protect, ensure and protect residences. The picketing causes emotional disturbance to his neighbors.

9. *Rabbi Mosher Howard*, active participant of the protests at Mr. Rosenbloom's residence. He asked that Mr. Rosenbloom give his ex-wife the religious decree to remarry. He stated that every protest has been cleared with the Gaithersburg City Police. He further stated that everyone deserves to live in peace and this same right should be given to Sarah Rosenbloom, the ex-wife.

There were no other speakers at the hearing.

Motion was made by Council Member Alster, seconded by Council Member Marraffa, that the City Council record on the above Ordinance, be held open until March 29, 2006, 5 p.m., with final action anticipated on April 3, 2006.

Vote: 5-0

RECESSED THE MAYOR AND COUNCIL MEETING AT 8:40 P.M.
AND RECONVENED AT 9:05 P.M.

XIII. JOINT DISCUSSION ITEM

Update on Proposed Casey East Sketch Plan (Z-301) and Proposed Memorandum of Agreement on the Construction of Watkins Mill Road Extended

Assistant City Manager Felton gave a brief background and current status on the above matter. He stated that on June 20, 2005, the Mayor and City Council and Planning Commission held a joint consolidated public hearing on Z-301 and SDP-05-003. He stated that guidance was received asking for a greater mix of uses. The revised plan was reviewed during a joint work session on January 9, 2006. During such work session, concerns were raised which included access to the proposed police station, insufficient green space, overall residential density, incompatible housing types, lack of a meaningful affordable housing component, too few restaurants, the inclusion of a hotel, and traffic impacts. Currently, the plan has reduced the residential unit count. The applicant is now proposing a net six percent of units for Moderately Price Dwelling Units and another six percent for workforce housing. The applicant also submitted a proposal to fund a transportation management district to work on trip mitigation. Mr. Felton added that the County has been involved in discussions with BP Realty concerning the possibility of an alternate site for the new 6th District Police Station at the Airpark. He stated that further discussions were conducted with the County and the developer concerning the possibility of a memorandum of understanding to get Watkins Mill Road Extended on both the east and west portions of the property. Planner Seiden oriented the Mayor and Council and Planning Commission with the site and outlined changes to the plan.

Staff was directed to schedule a special joint work session to receive a presentation from County police representatives and traffic experts to discuss concerns raised by the Mayor and City Council and Planning Commission such as the police station access, Watkins Mill Road Extended and traffic mitigation, elevations, residential density, senior housing, the loss of the possible 6th District Police Station, rezoning, lack of greenspace, and a pedestrian friendly plan. Several members asked that the plan be allowed to move forward and allow the detailed issues to be worked out through the SDP process.

XIV. ORDINANCES AND RESOLUTIONS**1. Resolution to Participate with Montgomery County for the Joint Procurement of Electricity**

Facilities Director Geiling stated that the City previously participated in a joint procurement for electricity with Montgomery County as the lead agency. All existing contracts have expired. The City's goal is to procure electricity at a rate that is below PEPCO's standard service offer. A cost increase of 40 – 50 percent above the current standard service offer is forecasted for electricity beginning in June 2006. This resolution authorized the City Manager to execute a contract for the above services with the successful bidder, in the amount of Nine Hundred Seventeen Thousand Dollars (\$917,000); said funds to be expended from the Operating Budget.

Motion was made by Council Member Marraffa, seconded by Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO PARTICIPATE WITH MONTGOMERY COUNTY FOR THE JOINT PROCUREMENT OF ELECTRICITY AND TO ENTER INTO CONTRACT WITH THE SUCCESSFUL BIDDER (Resolution No. R-28-06), be approved.

Vote: 5-0

2. Resolution Adopting the 2006 Strategic Plan for the City of Gaithersburg

During the Mayor and City Council Retreat held January 6 – 7, 2006, a draft Strategic Plan was reviewed and guidance on a number of revisions were provided to staff and incorporated into the Plan. City Manager Humpton gave a presentation and held a public discussion on the Plan during the January 17, 2006 Mayor and City Council meeting. No public comments were received following said meeting.

Motion was made by Council Member Edens, seconded by Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING THE 2006 STRATEGIC PLAN FOR THE CITY OF GAITHERSBURG (Resolution No. R-29-06), be approved.

Vote: 5-0

3. Resolution Awarding a Matching Grant to Amberfield Homeowners Association

This resolution authorized the City Manager to award a matching grant for landscaping to the above community upon determining that the project is completed as proposed, in the total amount of Two Thousand Five Hundred Dollars (\$2,500); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster, seconded by Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AWARDING A MATCHING GRANT TO AMBERFIELD HOMEOWNERS ASSOCIATION (Resolution No. R-30-06), be approved.

Vote: 5-0

4. Resolution for Dam Rehabilitation Design for the Lake Helene and Lake Placid Dams

PWPME Director Arnoult stated that each year high hazard and other State regulated dams are inspected with City and State personnel. Based on the results of the inspections, design services are needed for embankment repairs for the Lake Helene Dam and riser repairs and shore protection for the Lake Placid Dam. This resolution authorized the City Manager to negotiate and execute a contract for the above services with URS Corporation, 200 Orchard Ridge Drive, Gaithersburg, Maryland 20878, in the amount of Forty-Five Thousand Ninety Dollars (\$45,090); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Marraffa, seconded by Council Member Schlichting, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR DAM REHABILITATION DESIGN FOR THE LAKE HELENE DAM AND THE LAKE PLACID DAM (Resolution No. R-31-06), be approved.

Vote: 5-0

XV. POLICY DISCUSSION

SDP-05-006 - Proposal for Amendment to Schematic Development Plan (SDP) Approval for 206,895 Square Feet of Office Use; 55,211 Square Feet of Office/Retail/Restaurant Use; and, 348 Multi-Family Condominiums With Structured Parking. The Subject Property is Located in the Washingtonian Center, Parcel K, on Washingtonian Boulevard, South of the Springhill Suites Hotel and North of Negola's Ark Veterinary Hospital, and is in the Mixed Use Development (MXD) Zone

Planning and Code Administration Director Ossont stated a joint public hearing was held on January 3, 2006. The proposal is asking to amend the existing SDP by changing the approved 350 square feet of office use and the associated parking structure to 348 multi-family dwellings use, 206,895 square feet of office use, and 55,211 square feet of office/retail/restaurant use on 7.39 acres. He stated that staff analysis was presented to the Planning Commission on February 15, 2006 and the Commission recommended denial of the application. The Commission also recommended reexamination of Special Study Area 5/Map Designation 3 of the Master Plan to allow a creative mixed use project, consistent with MXD zoning that may include commercial, residential, office and affordable housing components. Mr. Ossont reminded the Mayor and City Council that their record closed on March 1, 2006.

Concerns were raised regarding rezoning and the compatibility of residential and office uses. Following the discussion, the Mayor and City Council directed staff to prepare a resolution for the above proposed amendment to the Schematic Development Plan, SDP-05-006.

XVI. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 10:25 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Administrative Assistant